**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**

:: **J U D G M E N T** ::

**S.B. CIVIL FIRST APPEAL NO.105/1987**
**Suratgarh Cotton Ginning & Processing Factory, Suratgarh**
**Vs.**
**Rajasthan State Electricity Board, Jaipur & Another**

S.B. CIVIL FIRST APPEAL UNDER SECTION 96 C.P.C. AGAINST THE JUDGMENT AND DECREE DATED 8th October, 1987 PASSED BY THE LEARNED ADDITIONAL DISTRICT JUDGE NO.2, SRI GANGANAGAR IN CIVIL SUIT NO.43/85 (83-80).

DATE OF JUDGMENT : 27th April, 2007

**P R E S E N T**

**HON'BLE MR. JUSTICE DEO NARAYAN THANVI**

Mr. Pawan Ojha for
Mr. S.G.Ojha for the appellant.
None present for the respondents.

**BY THE COURT :**

This appeal has been filed by the plaintiff-appellant against the judgment and decree dated 8th October, 1987 passed by the learned Additional District Judge No.2, Sri Ganganagar in Civil Original Suit No.43/85 (83/80) – Suratgarh Cotton Ginning &

Processing Factory, Suratgarh through Shri Vijay Kumar Vs. Rajasthan State Electricity Board, Jaipur and Another, whereby, the learned Additional District Judge No.2, Sri Ganganagar dismissed the suit of the plaintiff-appellant with cost.

The suit of the plaintiff-appellant was that by considering his factory as non-seasonal, the respondent-defendants have illegally recovered Rs.13,389.42 paisa vide bill of February, 1980 through making minimum charges, for which the defendants-respondents were not entitled to recover. Plaintiff-appellant started his factory on 11.12.79 and its electricity consumption was 16544 units but the defendant – Rajasthan State Electricity Board has charged 68211 units despite there being heavy cut off, which is more than 200 hours in a month and because of this, they were not entitled to make minimum charge. In the written statement, the defendant – Electricity Board has stated that charges have been levelled as per the Rules by considering the fact of plaintiff's factory being seasonal and plaintiff has deposited this amount without any protest. Special damages for Rs.3000/- have also been claimed by the defendants-respondents.

Upon the pleadings of the parties, the learned trial court framed seven issues and recorded the statements of PW-1 Shri

Vijay Kumar on behalf of plaintiff and DW-1 Shri Pawan Kumar on behalf of defendants. The main dispute in this appeal is as to whether the factory was seasonal in nature and the defendant – Electricity Board was entitled to recover Rs.13,389.42 paisa.

Learned counsel for the plaintiff-appellant has submitted that his factory was seasonal and a notice was also given to the defendants-respondents. He has drawn my attention towards the statement of PW-1 Vijay Kumar, who has stated that notice was given to the defendant – Electricity Board. From the record, it appears that there is neither any acknowledgment nor any copy of the notice, which is said to have been proved by the plaintiff during trial. It is true that such type of amount cannot be recovered for seasonal factories but as per condition 7(1) of the Tarrifs For Supply of Electricity Rules, 1976, it is obligatory on the part of the consumer to intimate one month in advance to the concerned Sub-Divisional Officer of the Electricity Board that, particular month or period shall remain off season and he will close down his plant. As stated above, there seems no compliance on the part of the plaintiff-appellant with regard to the fulfillment of this condition, therefore, the finding arrived at by the learned trial court on issues Nos.2 to 4 needs no interference and the judgment and decree passed by the learned trial court are in conformity with the above provisions.

In view of the aforesaid, there is no merit in this appeal. Accordingly, the impugned judgment & decree passed by the learned trial court are maintained and the appeal stands dismissed. Since no body has appeared on behalf of the respondents, therefore, there shall be no order as to costs.

**(DEO NARAYAN THANVI), J.**

**ms rathore**